

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
February 1, 2006

Present: Bill Hudnut, Mayor; Linna Barnes, Vice Mayor; Scott Orbach, Secretary; Rob Enelow, Treasurer; Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; Marty Hutt, Town Attorney; and Andi Silverstone, Town Clerk. Residents and guests: Susan and William Blacklow, 6912 Oakridge Avenue; Leanne Boland, 4115 Leland Street; Pearl Brownstone, 7408 Ridgewood Avenue; Marcy Forrest, 4136 Leland Street; Mike and Melissa Fox, 4123 Aspen Street; Linda Glew, 7700 Connecticut Avenue; Roseann Gochman, 7100 Ridgewood Avenue; Martin Gold, 4420 Walsh Street; Lees Hartman, 7214 Ridgewood Avenue; Anne Herring, 3905 Blackthorn Street; Jon Hiatt, 7410 Ridgewood Avenue; Lance Hoffman, 7104 44th Street; Sally Kelly, 7300 Oak Lane; Jules Lichtenstein, 4209 Rosemary Street; Don MacGlashan, 4114 Woodbine Street; Ralph Malvik, 3912 Leland Street; Judy McGuire, 4003 Rosemary Street; Julia Miller, 4212 Oakridge Lane; Joe Rubin, 4409 Ridge Street; Ketch Ryan, 6904 Oakridge Avenue; and John Withers, 7009 Maple Avenue.

I. General Business

A. Call to order – 7:30 p.m.

Mayor Hudnut called the meeting to order at 7:30 p.m.

B. Pledge Allegiance to the Flag

The Mayor led those in attendance in the pledge of allegiance to the flag.

C. Comments, Questions, Suggestions from Residents

A resident pointed out a misspelling of the word “ordinance” in the Charter Amendments. Staff will correct it.

Sally Kelly, 7300 Oak Lane, asked for the status of negotiations on the property at 7206 Meadow Lane. Councilmember Orbach indicated that an article in the next issue of the FORECAST would brief residents on the progress of negotiations for the property.

Martin Gold, 4420 Walsh Street, asked for clarification of the setbacks ordinance and how it would impact individual properties. He requested that the Council make it easier to understand. Councilmember Orbach developed a spreadsheet that would calculate required setbacks under the proposed ordinance. Staff will see if it can be put on the Town’s website for use by residents.

In response to a resident's question about the status of the complaint form, the Town Manager responded that it was brought before the Steering Committee for consideration.

D. Approval of Minutes of December 13 Meeting and Executive Session

Councilmember Barnes made a motion to approve the minutes of the open and executive sessions of December 13, 2005. Councilmember Wolf seconded the motion, and it passed unanimously.

E. Acceptance of FY05 Audit

Council Treasurer Rob Enelow reported that the audit went well and that revenues are increasing.

Councilmember Orbach made a motion to accept the FY05 audit. Councilmember Barnes seconded the motion, and it passed unanimously.

F. Steering Committee Report

Barry Hager, Chairperson of the Steering Committee, reported that the next committee meeting will be on February 8, and all residents are invited. He gave a status report on the work of the implementation committees. The Tree Protection ordinance was approved; and the Stormwater Management ordinance is in development and under review by civil engineers.

Town Manager Todd Hoffman reported staff is in the process of soliciting bids from two engineering firms to evaluate the proposed stormwater ordinance: PHR&A and CAS Engineering. The firms were asked to have the evaluation by February 8, 2006.

The Town Manager reported that CAS Engineering had responded to the proposal. It was the sense of the Council to award the project to CAS Engineering.

In response to the Steering Committee's request for a timeline for implementation of the new ordinances, Ketch Ryan and Lance Hoffman each provided a timeline in a different format.

The Regulatory and Enforcement Ordinance is to be brought before the Steering Committee while the Pre-Permit Application Consultation Ordinance has already been introduced.

II. Action Items

A. Public Hearing and Council Action on Variance Request, 4123 Aspen Street, Front Yard Fence and Wall

Michael and Melissa Fox, 4123 Aspen Street, applied for a variance from Town building regulations to construct a front yard fence and reconstruct a front yard retaining wall. According to Section 4-56(e) of the Town code "No fence, earth berm, hedge or

wall will be permitted to extend into the front yard, that is beyond the house line running along the front of the house and extending to the side lot lines.” Town Manager Todd Hoffman described the request. The home is located on the northwest corner of the intersection of Maple Avenue and Aspen Street. The property is a corner lot and has two front yards. The applicants propose to construct sixty linear feet of four-foot high picket fence and twenty-five linear feet of six-foot high picket fence in their front yard along Maple Avenue. The fence would be located behind the front house line along Aspen Street and would be set back from the Town right-of-way by two feet along Maple Avenue, as required by Town Code. In addition, the applicants require a variance to reconstruct forty linear feet of retaining wall in their front yard along Maple Avenue. The applicants already have replaced the retaining wall, as they were unaware of Town regulations.

Among the hardships cited by the applicants’ are that property is uniquely shaped and has no practical backyard. Therefore, the applicants are limited to fencing their functional side yard along Maple Avenue to create a safe outdoor area for their pets. They also explained that it will not impede the neighbors’ enjoyment of their properties. The fence will be located only on the applicants’ property and will meet all height and setback requirements. The retaining wall was simply removed and replaced for the new addition. The wall is required to retain the elevated area in the rear yard. The retaining wall has existed for 60 years and was reconstructed with like-kind materials.

The applicant described the project and answered Councilmembers’ questions about the height of the retaining wall and the fence material. There was discussion about plantings to screen the fence. The applicants explained that Leyland Cypress trees would shield the fence, and they agreed to plant shrubbery in front of the lower fence to screen it.

Councilmember Orbach made a motion to grant the variance as presented, with the condition that part of the fence facing Aspen Street be screened with shrubs that would grow to at least 4 feet high and be maintained. Councilmember Wolf seconded the motion, and it passed unanimously. Town Attorney Marty Hutt advised the applicants that if they ever want to replace the retaining wall, they would have to apply for a variance.

B. Public Hearing and Council Action on Amendment to Article III, Section 303 of the Town Charter, Entitled “Enforcement of Ordinances”

The Council considered an amendment to the Town Charter that would authorize the Town Council to provide that a violation of Town ordinances and resolutions that are authorized by State law and adopted by the Town may be punishable as a misdemeanor with a penalty not to exceed the maximum fine permitted under State law or both a fine and imprisonment. The amendment increases the maximum fine from \$500.00 to the maximum permitted under State law and the maximum term of imprisonment from 90 days to the maximum permitted under State law.

Discussion followed about whether or not the amendment should provide for fines that match State law instead of making the State fines the maximum. It was explained that violations would be enforced by the County Attorney. Although the amendment to the Charter does not specify a specific fine, each ordinance includes the amount of the

fine when there is a violation. It was the sense of the Council that the Town should have control over what to make the fines.

Councilmember Barnes made a motion to adopt the resolution to amend Article III, Section 303 of the Town Charter. Councilmember Wolf seconded the motion, and it passed unanimously. It will become effective 50 days from adoption.

C. Public Hearing and Council Action on Amendment to Article III, Section 304 of the Town Charter Entitled “Municipal Infractions”

Town Councilmembers considered an amendment to the Town Charter that would authorize the Council to provide that a violation of Town ordinances and resolutions that are authorized by State law and adopted by the Town may be punishable as a municipal infraction with fines to be imposed not to exceed the maximum permitted under State law. This amendment increases the maximum fine for an initial violation from \$100.00 to the maximum permitted under State law and increases the maximum fine for a repeat violation from \$200.00 to the maximum permitted under State law.

The Town Attorney clarified the distinction between a municipal infraction, which is a civil violation, and a misdemeanor, which is a criminal offense.

Councilmember Orbach made a motion to adopt the resolution to amend the Article to Article III, Section 304 of the Town Charter. Councilmember Enelow seconded the motion, and it passed unanimously.

D. Council Action on a Resolution Adopting the Montgomery County Multi-Hazard Mitigation Plan, as Required by Title 44 Code of Federal Regulations Part 201 as Authorized by the Disaster Mitigation Act of 2000, In Order to Remain Eligible for State and Federal Disaster Relief

Town Manager Todd Hoffman briefed Councilmembers on the need to approve a resolution adopting Montgomery County’s Multi-Hazard Mitigation Plan. The plan, required by the Disaster Mitigation Act of 2000, assesses community natural hazards and risks, determines mitigation needs and capabilities, provides mitigation solutions and guides post-disaster recovery. The plan addresses most natural hazards, including droughts, floods, tornadoes, hurricanes and blizzards.

All municipalities with land use authority in Montgomery County must either adopt the County’s plan or create their own plan in order to continue to receive pre and post-disaster mitigation funding. As such, the Town Council is asked to approve the County plan.

The Town will be involved in ensuring that our specific concerns about natural hazards are addressed by the plan and incorporated into successive updates. The Town Manager will be participating in focus groups once or twice a year. He will also be working with FEMA and the County Emergency Management Agency to see if the County can be the flood plain coordinator for the Town.

Councilmember Wolf asked that an article be put in the FORECAST about County plans for an avian flu epidemic.

Councilmember Barnes made a motion to adopt the resolution on the multi-hazard mitigation plan. Councilmember Orbach seconded the motion, and it passed unanimously.

III. Reports

A. Mayor's Report

1. Endorsing the U.S. Mayors' Climate Protection Agreement

Mayor Hudnut explained the U.S. Mayors' Climate Protection Agreement and asked Councilmembers if they would like for the Town to support it. The agreement describes efforts to reduce global warming and pollution. Several residents in attendance at the meeting spoke in support of the agreement. Councilmember Barnes made a motion for the Town to sign the agreement. Councilmember Orbach seconded the motion, and it passed unanimously.

B. Town Manager's Report

1. National Flood Insurance Program

The Town Manager is researching the Town joining the National Flood Insurance Program and will report back to the Council.

2. Consulting Arborist Program

Town Manager Todd Hoffman asked Councilmembers to consider changing the way the consulting arborist program works. Currently, letters are sent to half of the Town twice a year. What the Town Manager and arborist recommend is that the program be opened up for residents to use as they wish. Residents will be notified that trees need evaluation once every two years and that the program will be open to residents once every two years. Town staff will develop a database to keep track of which residents request the service.

Councilmember Orbach made a motion to approve the change in how the consulting arborist program works. Councilmember Enelow seconded the motion, and it passed unanimously.

Town Manger Todd Hoffman presented Councilmembers with a list of nuisance trees for approval. The Town arborist and Tree Committee have reviewed the list. Councilmember Orbach made a motion to approve the nuisance tree list as presented. Councilmember Enelow seconded the motion, and it passed unanimously.

The Town Manager reported on two engineering firms that he contacted to review the Stormwater ordinance. There is a "not to exceed" \$1,200.00 clause in the request for proposal. One firm, PHR&A, has not responded. The other firm, CAS Engineering, has presented a proposal. It was the sense of the Council to accept the proposal from CAS Engineering to review the Stormwater ordinance.

Councilmember Barnes and the Town Manager will develop a scope of work for review and analysis of the Setbacks ordinance. Discussion followed about whether or not members of the Steering Committee would have input in what is asked of

the land use planner. It was the sense of the Council to have an engineering firm analyze the setbacks ordinance.

There being no further business, the Council adjourned at 9:15 p.m. and reconvened at 9:30 p.m. in Executive Session to discuss personnel matters and real property acquisition.

Respectfully submitted,

Scott Orbach
Secretary

Transcribed by Andi Silverstone